

## Office of Personnel Management

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AUTHORITY: 5 U.S.C. 8347(a) and 8461(g). Subparts B, C, D, E, J, and K also issued under 5 U.S.C. 8345(j)(2) and 8467(b). Sections 838.221, 838.422, and 838.721 also issued under 5 U.S.C. 8347(b).

SOURCE: 57 FR 33574, July 29, 1992, unless otherwise noted.

#### Subpart A—Court Orders Generally

##### ORGANIZATION AND STRUCTURE OF REGULATIONS ON COURT ORDERS

#### § 838.101 Purpose and scope.

(a)(1) This part regulates the Office of Personnel Management's handling of court orders affecting the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), both of which are administered by the Office of Personnel Management (OPM). Generally, OPM must comply with court orders, decrees, or court-approved property settlement agreements in connection with divorces, annulments of marriage, or legal separations of employees, Members, or retirees that award a portion of the former employee's or Member's retirement benefits or a survivor annuity to a former spouse.

(2) In executing court orders under this part, OPM must honor the clear instructions of the court. Instructions must be specific and unambiguous. OPM will not supply missing provisions, interpret ambiguous language, or clarify the court's intent by researching individual State laws. In carrying out the court's instructions, OPM performs purely ministerial actions in accordance with these regulations. Disagreement between the parties concerning the validity or the provisions of any court order must be resolved by the court.

(b) This part prescribes—

(1) The requirements that a court order must meet to be acceptable for processing under this part;

(2) The procedures that a former spouse or child abuse creditor must follow when applying for benefits based on a court order under sections 8341(h), 8345(j), 8445 or 8467 of title 5, United States Code;

(3) The procedures that OPM will follow in honoring court orders and in making payments to the former spouse or child abuse creditor; and

(4) The effect of certain words and phrases commonly used in court orders affecting retirement benefits.

(c)(1) Subparts A through I of this part apply only to court orders received by OPM on or after January 1, 1993.

(2) Subpart J of this part applies only to court orders received by OPM before January 1, 1993.

(3) Subpart K of this part applies only to court orders received by OPM on or after October 14, 1994.

(d) This part has no application to the Thrift Savings Plan described in subchapter III of chapter 84 of title 5, United States Code.

[57 FR 33574, July 29, 1992, as amended at 59 FR 66637, 66638, Dec. 28, 1994]

#### § 838.102 Regulatory structure.

(a) This part is organized as follows:

(1) Subpart A contains information and rules of general application to all court orders directed at CSRS or FERS retirement benefits.

(2) Subparts B and C of this part contain information about court orders directed at ongoing employee annuity payments.

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(3) Subparts D and E of this part contain information about court orders directed at refunds of employee contributions.

(4) Subpart F of this part contains information about the effect of words and phrases commonly used in court orders affecting ongoing employee annuity payments and refunds of employee contributions.

(5) Subparts G, H, and I of this part contain information about court orders awarding former spouse survivor annuities.

(6) Subpart J of this part contains the rules applicable to court orders filed under procedures in effect prior to the implementation of this part. These rules continue to apply to court orders received by OPM before January 1, 1993.

(7) Subpart K of this part contains rules applicable to court orders for the enforcement of judgments rendered against employees or annuitants for physical, sexual, or emotional abuse of a child.

(b) Part 890 of this chapter contains information about coverage under the Federal Employees Health Benefits Program.

(c) Part 581 of this chapter contains information about garnishment of Government payments including salary and CSRS and FERS retirement benefits.

(d) Parts 294 and 297 of this chapter and §§ 831.106 and 841.108 contain information about disclosure of information from OPM records.

(e) Subpart V of part 831 of this chapter and subpart G of part 842 of this chapter contain information about how court orders affect eligibility to make an alternative form of annuity election.

(f) Part 1600 of this title contains information about court orders affecting the Federal Employees Thrift Savings Plan.

(g) Subpart F of part 831 of this chapter, subpart F of part 841 of this chapter, and part 843 of this chapter contain information about entitlement to survivor annuities.

(h) Subpart T of part 831 of this chapter and subpart B of part 843 of this chapter contain information about re-

funds of employee contributions and lump-sum death benefits.

(i) Parts 870, 871, 872, and 873 of this chapter contain information about the Federal Employees Group Life Insurance Program.

[57 FR 33574, July 29, 1992, as amended at 59 FR 66637, Dec. 28, 1994]

### § 838.103 Definitions.

In this part (except subpart J)—

*Child abuse creditor* means an individual who applies for benefits under CSRS or FERS based on a child abuse judgment enforcement order.

*Child abuse judgment enforcement order* means a court or administrative order requiring OPM to pay a portion of an employee annuity or a refund of employee contributions to a child abuse creditor as a means of collection of a “judgment rendered for physically, sexually, or emotionally abusing a child” as defined in sections 8345(j)(3)(B) and 8467(c)(2) of title 5, United States Code.

*Civil Service Retirement System* or *CSRS* means the retirement system for Federal employees described in subchapter III of chapter 83 of title 5, United States Code.

*Court order* means any judgment or property settlement issued by or approved by any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, The Northern Mariana Islands, or the Virgin Islands, or any Indian court in connection with, or incident to, the divorce, annulment of marriage, or legal separation of a Federal employee or retiree.

*Court order acceptable for processing* means a court order as defined in this section that meets the requirements of subpart C of this part to affect an employee annuity, subpart E of this part to affect a refund of employee contributions, or subpart H of this part to award a former spouse survivor annuity.

*Employee* means an employee or Member covered by CSRS or FERS.

*Employee annuity* means the recurring payments under CSRS or FERS made to a retiree. *Employee annuity* does not include payments of accrued and unpaid annuity after the death of a retiree under section 8342(g) or section 8424(h) of title 5, United States Code.